

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)
)
 v.) CASE NO. 02:07cr26-WKW
)
FREDERICK A. SMITH)

GOVERNMENT'S MOTION TO CONTINUE
HEARING ON MOTION TO SUPPRESS

Comes now the United States of America, by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, and respectfully submits the government's request to continue the hearing on defendant's motion to suppress (Doc. #12), which is presently scheduled on Thursday, April 12, 2007, for the following reasons:

1. On March 29, 2007, the defendant filed a motion to suppress the evidence seized in this case and requested an evidentiary hearing. (Doc. #12). This court ordered that the government respond to the defendant's motion on or before April 6, 2007, and set the evidentiary hearing for April 12, 2007. (Doc. #13)

2. On April 6, 2007, the United States submitted its response. (Doc. # 16). Also, on April 6, 2007, the defendant filed an unopposed motion to continue the trial of this case referencing the pending motion to suppress. (Doc. #17).

3. Defense counsel and government counsel discussed the April 12, 2007, evidentiary hearing date, and agreed that a request for continuance of the evidentiary hearing date would be included in the unopposed motion to continue trial. Inadvertently, the request for a continuance of the evidentiary date was left out of the motion to continue. The parties also agreed that, if it is convenient to the court, both parties request that the hearing be set at 3:00 p. m. on Thursday,

April 19, 2007.

4. The undersigned government counsel is scheduled to attend training in Columbia, South Carolina, April 11-13, 2007. In the interest of justice and the pending motion to suppress, the trial of this case will likely be continued to Judge William Keith Watkins' next criminal trial term, which is August 6, 2007.

5. The issue stated in the motion to suppress is not complicated, and has been briefed by both parties. Therefore, granting a continuance of the evidentiary hearing will still allow approximately four months to resolve the suppression issue before trial.

Therefore, the United States requests that this motion to continue the evidentiary hearing be granted.

Respectfully submitted this 9th day of April 2007.

LEURA G. CANARY
UNITED STATES ATTORNEY

/s/Tommie Brown Hardwick
TOMMIE BROWN HARDWICK
One Court Square, Suite 201
Montgomery, AL 36104
Phone: (334) 223-7280
Fax: (334) 223-7135
E-mail: tommie.hardwick@usdoj.gov
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CERTIFICATE OF SERVICE

I hereby certify that on April 9, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Kevin L. Butler, Esq.

Respectfully submitted,

/s/Tommie Brown Hardwick
TOMMIE BROWN HARDWICK
One Court Square, Suite 201
Montgomery, AL 36104
Phone: (334)223-7280
Fax: (334)223-7135
E-mail: tommie.hardwick@usdoj.gov
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